

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

FILED

MAY - 5 2009


CLERK

CENTRAL DIVISION

UNITED STATES OF AMERICA,

CR. 08-30124-KES

Plaintiff,

-vs-

ORDER,
REPORT AND RECOMMENDATION
ON POST-PLEA BAIL

RICHARD D. GEFFRE,

Defendant.

After consenting to this Court presiding over his change of plea, Defendant, Richard D. Geffre, pled guilty to the offense of Trafficking in Archaeological Resources in violation of 16 U.S.C. §470ee(b)(1) and (d). The Court thereafter recommended that Defendant's plea be accepted and that he be adjudged guilty of the offense. Following this, the Court continued Defendant's release in effect, based on the same terms and conditions. In the Court's view, because Defendant's guilty plea had not been accepted, the provisions of 18 U.S.C. §3143(a) did not apply. It is the Court's belief that the aforesaid provisions are only triggered if and when Defendant's plea is accepted by the District Court. Until acceptance had occurred, the pretrial provisions set forth in 18 U.S.C. §3142 applied and did not warrant detention. The Court also is of the opinion that if and when Defendant's plea is accepted, that he should be released pending sentencing, being satisfied by clear and convincing evidence, that Defendant is not likely to flee or pose a danger to the safety of any other person or to the community if released under §3142(b) or (c). Accordingly, it is hereby

ORDERED that Defendant may remain on release, subject to all of the terms and conditions that were previously imposed on him, until his guilty plea is accepted by the District Court. If and when the plea is accepted, it is hereby

RECOMMENDED that Defendant still be allowed to be released, on the same terms and conditions as previously ordered, pending sentencing or until further order of a judicial officer of this District.

NOTICE TO PARTIES

The parties have ten (10) days after service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. §636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require de novo review by the District Court.

Dated this 5th day of May, 2009, at Pierre, South Dakota.

BY THE COURT:

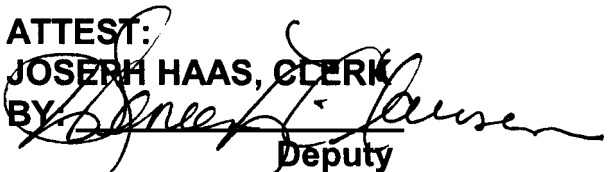


MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE

ATTEST:

JOSEPH HAAS, CLERK

BY



Deputy

(SEAL)